

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN BERENS,

Defendant.

NO. CR21-031 RSL

DISCOVERY PROTECTIVE ORDER

This matter, having come to the Court's attention on the Government's Unopposed Motion for Entry of a Discovery Protective Order, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

1. Protected Material

The following documents and materials are deemed Protected Material. The United States will make available copies of the Protected Materials, including those filed under seal, to defense counsel to comply with the government's discovery obligations. Possession of copies of the Protected Materials is limited to the defense attorneys of record, and investigators, paralegals, law clerks, experts, and assistants for the attorneys of record (hereinafter collectively referred to as members of the defense team). Protected Materials will be marked and labeled as "PROTECTED" where possible by the government or otherwise clearly identified as Protected Material:

- a. Grand jury transcripts and exhibits;
- b. Materials containing personal information about minor victims and minor victim family members, as well as any minor witnesses and their family members.

2. Scope of Review of Protected Material

Defense attorneys of record and members of the defense team may display and review the Protected Material with the defendant. The attorneys of record and members of the defense team acknowledge that providing copies of the Protected Material to the defendant and other persons is prohibited and agree not to duplicate or provide copies of Protected Material to the defendant and other persons.

If the defendant is in-custody, however, and notwithstanding the terms of this Order, defense counsel may provide a complete copy of discovery, including protected material, to the Defendant via the Federal Detention Center's Electronic Discovery and Legal Material Authorization Form and Education Department at FDC SeaTac. Defendant may review electronic copies of Protected Material in the FDC Education Department pursuant to Bureau of Prisons and FDC SeaTac policies and procedures but will not be permitted to have a copy of the Protected Material in his cell.

3. Consent to Terms of Protective Order for Defense Team Members Who Are Not Employees of the Office of the Federal Defender

Members of the defense team, including outside experts retained by the defense, who are not employed directly by the Office of the Federal Defender, shall provide written consent and acknowledgement that they will each be bound by the terms and conditions of this Protective Order. The written consent need not be disclosed or produced to the United States unless requested by the Assistant United States Attorney and ordered by the Court.

1 4. Parties' Reciprocal Discovery Obligations

2 Nothing in this order should be construed as imposing any discovery obligations
3 on the government or the defendant that are different from those imposed by case law and
4 Rule 16 of the Federal Rules of Criminal Procedure, and the Local Criminal Rules.

5 5. Filing of Protected Material

6 Any Protected Material or information contained therein that is filed with the
7 Court in connection with pre-trial motions, trial, sentencing, or other matter before this
8 Court, shall be filed under seal and shall remain sealed until otherwise ordered by this
9 Court. This does not entitle either party to seal their filings as a matter of course. The
10 parties are required to comply in all respects to the relevant local and federal rules of
11 criminal procedure pertaining to the sealing of court documents.

12 6. Non-termination

13 The provisions of this Order shall not terminate at the conclusion of this
14 prosecution.

15 7. Violation of Protective Order

16 Any violation of any term or condition of this Order by the Defendant, his
17 attorney(s) of record, or any member of the defense team may result in contempt of court,
18 and/or monetary or other sanctions as deemed appropriate by this Court.

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1 If the defendant violates any term or condition of this Order, the United States
2 reserves its right to seek a sentencing enhancement for obstruction of justice, or to file
3 any criminal charges relating to the Defendant's violation.

4 DATED this 31st day of January, 2023.

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7 ROBERT S. LASNIK

8 United States District Judge

9 Presented by:

10 s/ Laura Harmon

11 LAURA HARMON

12 Special Assistant United States Attorney
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